

SN 09/882,007

IFW

In re Patent Application :
of Leo Kayser III :
Serial No. 09/882,007 :
For: Automated Matching System for :
Borrowers and Savers :
Filing Date: June 15, 2001 :
Priority Date: 06/20/2000 :

U.S. PATENT AND TRADEMARK OFFICE

Examiner: Ojo O. Oyebisi

Art Unit: 3628

I hereby certify that this correspondence is being deposited today with the
United States Postal Service as first class mail in an
envelope addressed to
Mail Stop Non-Fee Amendment
The Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Irene M. Christine

name

signature

Date

5/27/11

Mail Stop Non-Fee Amendment
The Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AFFIDAVIT UNDER 37 CFR 1.132

State of New York, County of New York, SS:

I, Leo Kayser III, being at least eighteen years of age, do hereby declare, upon personal knowledge, that:

1. I am the sole inventor named in the above captioned patent application.
2. I graduated from Yale University in 1966 with an Honors Divisional Major in politics and economics and graduated in 1969 from the University of Virginia School of Law where I served on the Law Review.
3. I am presently a practicing attorney at law and member of the bar of the state of New York. My practice involves and requires a detailed knowledge of economics, American banking law, securities law, general commercial law, and corporate law. Since October 1999, my law firm has acted as United States counsel to

Gazprombank. This relationship arose out of the Russian currency crisis. I have represented other Russian banks since 1998, after having accepted an invitation from the Central Bank of Russia to attend an international conference also sponsored by the Association of Russian Banks to help plan the transition to a market economy.

4. I am a member of the Economics Club of New York and have been a member since 2005.
5. In 1984 I organized a New York corporation, BANKERS AUCTION MARKET OF AMERICA CORP. or "Bamacorp" as a vehicle for my above-captioned invention.
6. On or about ten (10) years ago I filed a non-provisional application for a patent on my invention from the United States Patent Office. That application is still pending as a request for continued examination after a final rejection by the Office based on a prior art patent (a) Dykstra 5,611,052 which issued on March 11, 1987 having been declared by the Office as anticipating my Claims 6 and 7 –19; and, in addition , (b) claims 6-10 were rejected based on a declaration by the Office that these claims “contain(s) subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art (presumably a banker or economist) that I had possession of the claimed invention. I assume that this means the Office has erroneously decided that the invention is either not fully explained or as explained by me does not adequately convey to an economist what the invention is. In making this assessment I assume the Office failed to include the subject matter taught by the non-elected claims due to its imposition of a restriction.
7. My credentials set forth above make it abundantly clear that I have adequately

- explained and claimed my invention and that “interest” and “rate” are terms interchangeably used by economists.
8. Dykstra only teaches an underlying system for evaluating credit worthiness of an individual and is not related to the notes auction system taught and claimed in my application. It was recited as background to assist an economist in understanding the advancement of my invention over the art.
 9. Non-elected Claim 1 is a part of the specification and its contents are a part of the specification and recites matter that supports the remaining claims when read in conjunction with the specification. Non-elected Claim 1 contradicts the Final Office Action, specifically its assessment that Claims 6-10 are unsupported. The applicant recites in non-elected and restricted claim 1 “an automated system for matching borrowers **at a specified interest rate** to savers **at a specified interest rate**”... .
{Emphasis appearing in bold type used by the Examiner in the Final Rejection supporting text.}
 10. The following substantive facts are necessary to understand the error that has been made by the Office in making the foregoing determinations and using them to reject the claims cited. First and foremost, on page 4, lines 12 – 18 I claimed all of the subject matter and teachings recited in Dykstra using the common device of incorporating it by reference as prior art in support of the advancement made by my invention. In addition, I also claimed there the disclosures in Midoikawa (1998), DeFrancesco et al (1998), and Fraser et al (1999) incorporating them by Reference.
 11. My initial presented, non-elected Claim 1 is by accepted practice a part of my specification. This claim recites the following:

1. A computer system for conducting a savings and loan auction between a plurality of saver's institutions acting on behalf of a plurality of savers and a plurality of borrower's institutions acting on behalf of pre-qualified borrowers for a plurality of pre-set amounts of offered principal, each offered principal being offered for one of a plurality of pre-set time periods via a funds auctioneer, said computer system comprising:

- (a) at least one computer maintained by said funds auctioneer;
- (b) at least one computer network connected to said computer;
- (c) means for receiving **an electronic savings deposit offer and ask rate from a prospective saver's institution** over said at least one computer network;
- (d) means for receiving an electronic loan request and **bid rate** from a prospective borrower's institution over said at least one computer network;
- (e) means, located at said funds auctioneer, for electronically sorting, matching, and selecting electronic savings deposit **offers and ask rates** which match with electronic loan requests and **bid rates** to form a plurality of matches of bids and asks or transactions,
- (f) means, operated by said funds auctioneer, for electronically confirming each said match of a bid and ask to each said saver's institution and each said borrower's institution which is a party to the matched bid and ask or transaction over said at least one computer network or another computer network;
- (g) means, operated by said funds auctioneer, for electronically confirming each said match of a bid and ask to a clearing house bank and a surety, specifying each said saver's institution and each said borrower's institution, which is a party to the matched bid and ask or transaction, over said at least one computer network or another computer network;
- (h) means, operated by said funds auctioneer, for **electronically monitoring payments of principal and interest** from each borrower's institution that is a party to a transaction via the clearing house bank to each saver's institution that is a party to the matched transaction;
- (i) means for electronically issuing a negotiable certificate of deposit from the auctioneer to a saver via saver's institution and the clearing house bank;
- (j) means for electronically redeeming and issuing notification of redemption of said auctioneer's negotiable certificate of deposit to the surety, the clearing house bank, the saver's institution, and the borrower's institution; and
- (k) means, operated by said funds auctioneer, for electronically monitoring **payments of principal and interest** from each borrower's institution that is a party to a transaction via the clearing house bank to each saver's institution that is a party to the matched transaction; and,
- (l) means for electronically transferring final principal and accrued interest

from the borrower's institution via the clearing house bank to the auctioneer's certificate holder and canceling the auctioneer's certificate of deposit.

12. The subject matter claimed by me recited in non-elected Claim 1 above mentions rates in terms that are clear and understandable by any economist or banker, namely a person skilled in this art. Rates as used mean the same as the term "interest". The term "interest" was used in original claim 1 in a manner consistent with a synonym for rate and the other associated terms "offer and ask rate". The terms appear in the original Claim 1 as follows:

- (a) payments of principal and interest;
- (b) electronically monitoring payments of principal and interest;
- (c) offer and ask rates;
- (d) offer and ask rate; and,
- (e) an electronic savings deposit offer and ask rate from a prospective saver's institution.

are each referring to a "specified interest rate" and convey exactly a particular interest or interest rate and that it is understood in banking that "interest" and "interest rate" are indeed synonymous.

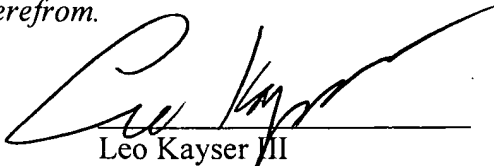
13. I direct the Examiner and the Office to the Jones and Fraser patents incorporated in their entirety into my specification. Claim 17 of Jones recites that "The method of claim1, further comprising the step of transmitting **current interest rates** of said lender..." This is the same term I used in my claims and therefore in my specification which is explained and used by Jones in his invention summary at

paragraph 3 thereof where he states (and I state via incorporation) :

Preferred embodiments include automatically transmitting information regarding the approval status of the potential borrower to the lender and providing information regarding **the lender's current interest rates ...**

14. The incorporated Jones reference patent further recites in his description of the preferred embodiment, "The data processor 5 may access and input current daily interest rates of the lender into a data file at block 84..." These interest rates of Jones recited here are the same interest rates or bid and ask rates I am referring to and quite meaningful to bankers and economists as well as the American public and American corporate business executives.
15. I further direct the attention of the Office and the Examiner to the Fraser patent incorporated into my patent application by reference in its entirety. I observe that Fraser uses the same "interest" term I used in my specification. In his detailed description under the heading "(1) Transaction Server" he refers to information about a loan as including "fixed interest rate" and "loan duration information". All of this information is a part of my specification properly incorporated by reference under MPEP practice rules.

The affiant, applicant, and inventor, Leo Kayser III, further states that the above statements were made with the knowledge that willful false statements and the like are punishable by fine and/or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that any such willful false statement may jeopardize the validity of this application or any patent resulting therefrom.



Leo Kayser III

Sworn to and subscribed before me this 24th day of May, 2011.

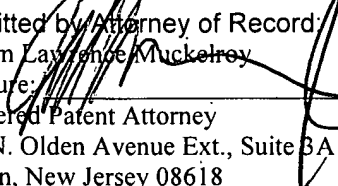

NOTARY PUBLIC

My commission expires: Oct. 31, 2014

(SEAL)

DEBORAH MOORE
Notary Public, State of New York
No. 01MO4818549
Qualified in New York County
Commission Expires October 31, ~~2006~~

2014

Submitted by Attorney of Record:
William Lawrence Muckelroy
Signature: 
Registered Patent Attorney
1901 N. Olden Avenue Ext., Suite 3A
Trenton, New Jersey 08618
(609) 882-2111
Registration No. 26,961